

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
-against-	:	21-CR-754-2 (VEC)
	:	
	:	<u>ORDER</u>
JOSE LUIS DAVILA SANTACRUZ,	:	
	:	
Defendant.	:	
	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on May 23, 2023, Jose Luis Davila Santacruz (“Defendant”) was sentenced principally to a term of imprisonment of thirty months following his plea of guilty to charges relating to conspiracy to structure cash deposits, in violation of 18 U.S.C. §§ 371 and 5324;

WHEREAS effective November 1, 2023, in its Amendment 821, the United States Sentencing Commission amended the United States Sentencing Guidelines;

WHEREAS on January 8, 2024, Defendant filed a *pro se* motion for reduction of his sentence pursuant to Amendment 821 and a motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A);

WHEREAS at the time of the filing, Defendant was scheduled to be released from federal custody on February 1, 2024;

WHEREAS on January 9, 2024, the Court denied Defendant’s motion for reduction in sentence as moot given his upcoming release on February 1, *see* Order, Dkt 77; *see also* United States Sentencing Guidelines § 1B1.10(e)(2) (defendants whose requests are granted can be released from prison no earlier than February 1, 2024); and

WHEREAS on February 1, 2024, the Court learned that Defendant's release date had been pushed back to March 17, 2024, because his final order of removal made him ineligible for First Step Act time credits;

IT IS HEREBY ORDERED that the Court's January 9, 2024, Order, Dkt. 77, denying Defendant's motion for a reduction in sentence as moot is VACATED.

IT IS FURTHER ORDERED that Defendant's motion for a reduction in sentence is DENIED on the merits. Defendant is eligible for the zero-point offender reduction pursuant to Amendment 821. *See* Probation Report, Dkt. 73 at 22. For the reasons set forth at Defendant's sentencing, however, a term of imprisonment of 30 months — which is within the adjusted Guidelines range — remains appropriate. *See United States v. Wilson*, 716 F.3d 50, 52 (2d Cir. 2013) (“A retroactive amendment to the Guidelines ‘merely authorizes a reduction in sentence; it does not require one.’” (quoting *United States v. Rivera*, 662 F.3d 166, 170 (2d Cir. 2011))); *United States v. Johnson*, No. 12-CR-261 (SJF), 2015 WL 5883955, at *5 (E.D.N.Y. Oct. 8, 2015) (declining to reduce a defendant's sentence despite the defendant's eligibility for a sentence reduction pursuant to a Guidelines amendment “particularly [because] [the] defendant's sentence f[ell] within the amended Guidelines range”). The Defendant laundered substantial sums of money, knowing it was proceeds of narcotics dealing. A 30 month sentence is needed to reflect the seriousness of the offense and to avoid creating unwarranted disparities between similar defendants.

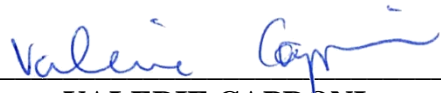
IT IS FURTHER ORDERED that Defendant's motion for compassionate release is DENIED. Defendant has not shown that extraordinary and compelling reasons warrant such a reduction. *See* 18 U.S.C. § 3582(c)(1)(A)(i). Although he describes the need to take care of his minor children, who have various medical and mental health needs, he has not shown that his wife is an inadequate caregiver. *United States v. Dozier*, No. 18-CR-41 (DLC), 2022 WL

836908, at *1 (S.D.N.Y. Mar. 21, 2022). Such family circumstances do not rise to the level of extraordinary and compelling circumstances when alternative caregivers are available. *See id.*

The Clerk of Court is respectfully directed to terminate the open motion at Dkt. 75, to mail a copy of this Order to Mr. Davila Santacruz, and to note the mailing on the docket.

SO ORDERED.

Date: February 1, 2024
New York, NY



VALERIE CAPRONI
United States District Judge